HIGHT COURT OF JUDICATURE CHHATTISHGARH : BILASPUR

Single Bench : Hon'ble Shri S.R. NAYAK,

Writ Petition NO. 5919OF 2005

PETITITIONER		Smt. Radha Bai W/o, Chaintaram Dewangan, Aged about 63 years, R/o Village Jhalap, P.H. No. 13, Tahsil & Distt. Mahasamund (C.G.)
		Versus
RESPONDENTS	1.	State of Chhattisgarh, Through : Collector, Mahasamund, Distt. Mahasamund (C.G.)
	2.	Tahsildar, Mahasamund, Distt. Mahasamund (C.G.)
	3.	Shanti Bai Wd/o, Garib Das Panika, Aged about 57 years, R/o Village Kharejhiti, Tahsil and District Mahasamund (C.G.)

Present :
Mr. Manoj Paranjape, learned counsel for the petitioner.

ORAL ORDER
(passed on 2nd December, 2005)

The petitioner being aggrieved by the order of the Board of Revenue dated 25/07/2005 marked as Annexure-P/5 affirming the order of the Collector, Mahasamund dated 02/11/1998 made in Revenue Case No. 07B/121, Year 1998-99 has preferred this writ petition under Articles 226 and 227 of the constitution of India.

(2) The facts of the case in brief are as follows :

Husband of respondent No. 3, namely Garibdas was a Bhumiswami in respect of disputed land bearing Khasra No. 772/17 admeasuring 1.214 hectares, which land is hereinafter referred to as 'schedule land'. Husband of respondent No. 3 sold the schedule land to the petitioner under a registered sale-deed dated 06/04/1983. When the matter stood thus, the Collector suo motu initiated the proceedings under the Chhattisgarh Land Revenue Code and issued show cause notice on 03/06/1995 calling upon the petitioner to show cause why the above transaction could not be declared as null and void being violative of the mandatory provisions of Section 165 (7) (b) of the Chhattisgarh Land Revenue Code. The petitioner submitted his reply. The District collector having considered the reply ultimately passed the order on 02/11/1998 declaring the sale transaction dated 06/04/1983 as null and void. Being aggrieved by the above order of the District Collector, the petitioner preferred revision to the Board of Revenue. As already pointed out (supra), the Board of Revenue by its order dated 25/07/2005 dismissed revision petition confirming the order of the District Collector. Hence, this writ petition.

(3) I have heard Mr. Manoj Paranjape, learned counsel for the petitioner and perused the material papers. It was strenuously contended by learned counsel for the petitioner that the very initiation of the proceedings that too suo motu by the District Collector under Section 165 of the Chhattisgarh Land Revenue Code is ex facie illegal, inasmuch as though there is no limitation prescribed under the statute to suo motu initiate action, that power should be exercised by the District Collector within a reasonable time. Learned counsel would contend that in the instant case suo motu action was initiated after a lapse of more that twelve years and only on that ground, the impugned orders of the District Collector and Board of Revenue could not be sustained and they are liable to be quashed by this Court by writ of certiorari.

(4) It is fairly well-settled that though the limitation is not prescribed under a statute, the statutory authorities who are vested with revisional or review power, should exercise such power within a reasonable time and if they exercise such power beyond reasonable time, in appropriate cases, the Court would step-in under Article 226 of the Constitution and prevent the action being taken. There is no hard and fast rule as to what could be a reasonable time. It all depends upon the facts and circumstances of each case, nature of violation and kinds of rights of the parties, the objectives of the legislation in question and several other similar attendant circumstances. Here is a case where the land belonging to a tribal man was purchased by the petitioner without a prior permission from the District Collector. It is needless to state that the legislature in order to achieve laudable social objectives contemplated in the preamble of the Constitution and detailed under the provisions of part IV of the Constitution has prescribed the condition precedent for alienating the lands belonging to the disadvantageous classes like the tribals. If that is the Constitutional goal and pledge and the object of the law, mere gap of twelve years in initiating the proceedings could not be a justification for this Court to step-in under Article 226 of the Constitution in order to help to an individual who is guilty of breach of public law and at the peril of the social objectives, legislative intendment. Article 226 of the Constitution, I am afraid, is not meant to serve such persons who violate the public law requirements and acquire the property at the peril of the beneficiary of the law. In that view of the matter, it is not a fit case where the Court should come to the rescue of the petitioner who is admittedly purchased the schedule land in breach of mandatory provisions of public law. On that short ground, the writ petition is dismissed. There is no order as to costs.

Sd/-
Chief Justice

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